UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ALABAMA EASTERN DIVISION

| THE UNITED STATES OF AMERICA, |) |
|-------------------------------|--|
| Plaintiff, v. |)) Civil Action No.) 1:09-cv-02423-KOB |
| JAMES J. STRICKER, et al., |) |
| Defendants. |)) _) |

MOTION OF DEFENDANTS JAMES J. STRICKER, DANIEL R. BENSON, DONALD W. STEWART, AND KASOWITZ, BENSON, TORRES AND FRIEDMAN LLP TO DISMISS THE COMPLAINT

COME NOW James J. Stricker, Daniel R. Benson, Donald W. Stewart, and Kasowitz, Benson, Torres and Friedman LLP (the "Moving Defendants"), by and through their attorneys Balch & Bingham LLP, and hereby move to dismiss plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). As grounds therefor, and as more fully set forth in the brief in support of this motion to dismiss filed contemporaneously herewith, the Moving Defendants state:

- 1. Plaintiff's claims against the Moving Defendants are barred by the statute of limitations.
- 2. Plaintiff failed to properly allege the identities of the individuals on whose behalf it supposedly made medical payments, the amount of those

payments, and the medical condition for which those payments were made pursuant to Fed. R. Civ. P. Rule 8.

Dated: February 1, 2010. Respectfully submitted,

/s M. Todd Lowther

Teresa G. Minor M. Todd Lowther BALCH & BINGHAM LLP 1901 Sixth Avenue North (35203) Post Office Box 306 Birmingham, AL 35201-0306 Telephone: (205) 251-8100 Facsimile: (205) 226-8798

tminor@balch.com tlowther@balch.com